

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF CALIFORNIA
SAN FRANCISCO DIVISION

SAN DISK CORPORATION,

No. C 11-5243 RS

Plaintiff,

v.

**ORDER OVERRULING OBJECTION
TO DENIAL OF MOTION TO
COMPEL**

ROUND ROCK RESEARCH LLC

Defendant.

Round Rock Research, LLC seeks review of an order of the assigned magistrate judge. Round Rock moved to compel San Disk Corporation to present a deponent under Rule 30(b)(6) of the Federal Rules of Civil Procedure who had researched and obtained certain information regarding the processes by which San Disk's products are manufactured at third-party overseas fabrication facilities. The magistrate judge denied the motion, concluding that Round Rock had failed to show a legal or factual basis on which San Disk could be required to conduct an investigation of that nature for purposes of responding to a deposition notice under Rule 30(b)(6).

Round Rock's challenge to the order is premised on its assertion that the magistrate judge failed to recognize that Rule 30(b)(6) requires a corporate defendant to provide "reasonably available" information, as opposed merely to information in its "possession, custody, or control." Round Rock points to evidence that San Disk had the ability to obtain the information in question,

1 and argues that the magistrate judge made no finding as to whether it was thereby “reasonably
2 available.” Thus, according to Round Rock, the denial of its motion was contrary to law.

3 A district court may modify a magistrate judge’s ruling on a non-dispositive matter only if
4 the order is “clearly erroneous” or “contrary to law.” 28 U.S.C. § 636(b)(1)(A); Fed.R.Civ.P. 72(a);
5 Bahn v. NME Hospitals, Inc., 929 F.2d 1404, 1414 (9th Cir. 1991). Round Rock has failed to show
6 such error here because it is clear from the record that the magistrate judge understood and correctly
7 applied the “reasonably available” standard. Contrary to Round Rock’s contention, its motion was
8 *not* denied on grounds that the information was outside the possession, custody, or control of San
9 Disk. Rather, as the magistrate judge explained, the case law relied on by Round Rock did not
10 support a duty to conduct the kind of independent investigation of information held by overseas
11 third parties it contended San Disk should undertake. Round Rock’s showing that it might very well
12 be possible for San Disk to obtain such information given its contractual relationships with the third
13 parties does not translate into it being “reasonably available” within the meaning of the rule. The
14 magistrate judge’s conclusion that San Disk’s duties to prepare a witness under Rule 30(b)(6) did
15 not extend so far was neither clearly erroneous nor contrary to law. The objection to the ruling is
16 therefore overruled.

17 Round Rock’s sealing motion [Dkt. 289] is granted, as San Disk at least arguably has an
18 interest in maintaining the confidentiality of the details of its operations reflected in the redacted
19 material, although it is seems likely at least some of the information might already be public or too
20 general to warrant sealing. Notwithstanding the motion is being granted in this instance, parties
21 should exercise care to request sealing only in the limited circumstances contemplated by the local
22 rules. In this instance, the details redacted from the briefing easily could have been omitted entirely
23 without altering the meaning or the forcefulness of the arguments.

IT IS SO ORDERED.

Dated: 2/19/14



RICHARD SEEBORG
UNITED STATES DISTRICT JUDGE